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March 16, 2011

REMARKS/ARGUMENTS

Reconsideration of this application is respectfully requested.

The Examiner's objection to the amendment filed December 24, 2009, as allegedly introducing "new matter" into the disclosure is respectfully traversed.

It is assumed that the Examiner intended to make an objection to the last-filed amendment dated May 12, 2010, and not the yet earlier filed amendment of December 24, 2009 (e.g., because the quoted subject matter from claim 1 was introduced by the May 12 amendment).

In any event, although the originally filed disclosure does include support for controlled water-spouting movements in the foot-width dimension (e.g., see page 28, lines 20 *et seq.*), there was no intention to require such widthwise spout movements in any prior amendments to claim 1.

The confusion seems to have arisen in a perhaps less than optimum attempt to describe the "width" of a narrow foot-widthwise band of spouted water as being less than the longitudinal foot length over which it is to be moved. In addition, the undersigned now recognizes that describing spouting width as something that "traverses the width of the foot" could be misinterpreted to describe movement in the widthwise

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direction. Actually, the intent was merely to describe the spouting width in the foot-widthwise dimension as extending across the width of the foot.

In any event, the language found objectionable by the Examiner has now been removed from independent claim 1 as requested – in favor of what is hopefully more definite language that will be seen to have support, for example, in original Figs. 4, 5, 11, 13A, 17, etc., and the original associated text in the specification (including, for example, original claim 3).

Should the Examiner continue to have any concerns about “new matter” issues, it is respectfully requested that the undersigned be telephoned for prompt resolution.

The rejection of claims 1, 2, 4, 13 and 14 under 35 U.S.C. §102 as allegedly anticipated by Rolando '503 is respectfully traversed.

Rolando teaches two freely rotating manifolds 142, 143, one rotatable freely about a horizontal axis and one rotatable freely about a vertical axis. Each of these manifolds has angularly directed spray nozzles 144, 146, which, when jetting water, create angular reaction forces that cause these two manifolds to rotate (e.g., see 4:21-24). The basic idea appears to be washing the foot by inundation of the entire upper and lower foot surfaces with swirling masses of jetted water coming from the rotating nozzle sets 144, 146.

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The Examiner's comments sometimes focus on a single one of these nozzles while ignoring all of the other nozzles – for part of the analysis – while at other times relying apparently on the entirety of what the Examiner appears to assume is a linear manifold of plural nozzles sometimes existing in a horizontal rotational position that would extend widthwise across the foot. It is unclear where the Examiner finds the shape (e.g., linear or circular) of the manifolds 142, 143 in the alternative embodiment of Figs. 3-4. Furthermore, the "control circuit" referred to by the Examiner at 2:56-62 is actually associated with the first exemplary embodiment of Figs. 1-2.

The Examiner's analysis of a single nozzle movement from an uppermost position is difficult to follow because the depiction in Fig. 3 appears to show a rather wide conical angle jet from each nozzle 146 which, as it travels about a horizontal spin axis, would appear to hit the side of the container as often as it hits the foot and to sometimes be directed to the bottom of the foot rather than the top of the foot. It would appear, at best, that the water spouted by any single nozzle will traverse a circular locus about a horizontal axis that is perpendicular to the foot width dimension.

The Examiner's reference to a spouted "width of a nozzle" is hard to understand. Frankly, there is no identifiable intended widthwise and/or longitudinal movement of any nozzle (or water jet). Instead, all of the nozzles are mounted upon a freely rotatable

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manifold that simply spins about at whatever speed is determined by the reaction forces of water coming from the angulated jets.

Clearly, Rolando cannot possibly anticipate amended claim 1 which requires, *inter alia*, a plurality of side-by-side nozzles in the foot-width direction which causes only a part of the foot in a longitudinal direction to receive spouted water, while the combined spouting width of the side-by-side nozzle extends across the width of the foot – as well as a moving mechanism configured to concurrently move the plurality of side-by-side water spouting nozzles in the longitudinal direction – whereby spouted water across the width of the foot is moved along a longitudinal direction of the foot, etc. Such is the antithesis of Rolando's helter-skelter swirling foot-washing bath that appears to simultaneously hit all of the front and bottom of the user's foot with complex swirling water jets.

The Examiner's comments with respect to dependent claims 2, 4, 13 and 14 are also erroneous for yet additional reasons, but do not need to be more specifically addressed at this time since, as a matter of law, it is impossible for any claim to be anticipated unless a single cited prior art reference teaches each and every feature of each rejected claim.

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The Examiner is thanked for providing a helpful "response to arguments" section at pages 7-8 of the last office action. The above amendments are, *inter alia*, hoped to ensure that patentable weight is given to the claimed feature that requires spouted water having a length in the foot-width direction that is broad compared to a length in the longitudinal direction of movement.

The rejection of claims 10, 11 and 15 under 35 U.S.C. §103 as allegedly being made "obvious" based on Rolando '503 taken alone is also respectfully traversed.

Fundamental deficiencies of Rolando have already been noted above with respect to parent claim 1.

The Examiner's comment that Rolando appears silent with regard to exactly how manifold 143 is caused to rotate is incorrect. At 4:22-25, Rolando explicitly teaches that the manifolds rotate due to reaction forces of the jetted water issuing from spray nozzles 144, 146. The Examiner's comments concerning claim 15 are mere speculation, without any factual support anywhere in the Rolando teaching.

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In any event, no further comment is believed necessary at this time given the fundamental deficiencies already noted above with respect to parent claim 1.

The rejection of claims 1, 2, 4, 10, 11 and 13-17 under 35 U.S.C. §103 as allegedly being made “obvious” based on Guzzini EP '852 in view of Ahn '212 is also respectfully traversed.

Guzzini's nozzles 15, 16 are directed only to the sole of the foot – not to the top portion of any foot. Here, the Examiner's comments are apparently based upon a misconstruction of the applicants' claim language. When the applicants' claims are properly construed (MPEP §2111) in light of the accompanying specification, it is clear that the “front side” of a user's foot cannot possibly be the bottom side. Instead, it is the top side. Claim 1 has been amended so as to more explicitly require this feature, which makes Guzzini actually an antithesis of the claimed invention. That is, Guzzini, to the extent that it has any relevance whatsoever, teaches directly away from the applicants' claimed invention.

The Examiner apparently recognizes some kind of deficiency with Guzzini – albeit it is not explicitly noted in the Examiner's comments. Yet the Examiner cites the secondary reference to Ahn as allegedly showing “what Guzzini suggests”. Presumably, the Examiner has recognized that Guzzini has merely a single linear array of

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longitudinal nozzles 15 for one foot and 16 for the other foot (e.g., see Fig. 1), while Ahn has a complex two-dimensional array of nozzles over the entire bottom foot surface of each foot (e.g., see Fig. 4). Even if these Guzzini side-by-side nozzles are arranged "across the foot" (e.g., in a width direction), they are all directed toward the bottom of the foot. The only nozzles directed towards the top front of the foot would be nozzle(s) 150 held by the "front jet means 110", which appears to be fixedly positioned above the toes of the user's foot (e.g., see Fig. 2).

With respect to claims 10 and 11, the Examiner asserts that Guzzini's nozzles are mounted for pivotal rotation and thus are "inherently" supported by a rotary shaft. Of course, all of the Guzzini nozzles are located underneath the foot and, to the extent these upwardly directed nozzles have rotary shafts, such would presumably be vertically oriented, which is again directly contrary to the applicants' claimed invention. Yet further, the Examiner has offered no showing that there would be any inherent rotary shaft that pivotally supports either rotation or rotational movement of the top foot front water-spouting section as the water arrival point is moved along a longitudinal direction of the foot. Still further, claim 11 requires the rotary shaft to be pivotally supported immediately above a position of a root of the fifth toe or closer to the toe top side from that in the container body in use. The Examiner has not even attempted to articulate any rationale for such finding under the doctrine of inherency.

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The rejection of claims 5-8 and 15-17 under 35 U.S.C. §103 as allegedly being made "obvious" based on either Rolando or Guzzini and Ahn as applied above and further in view of Pisani '447 is also respectfully traversed. Although the stated ground of rejection may be slightly ambiguous, the undersigned interprets it as postulating two obviousness-type grounds of rejection: Rolando/Pisani on the one hand, and Guzzini/Ahn/Pisani on the other hand. Both such grounds are respectfully traversed.

Fundamental deficiencies of Rolando, as well as Guzzini/Ahn, have already been noted above for parent claim 1. Pisani does not supply those deficiencies. Indeed, Pisani teaches a hydrotherapy limb massager where the exemplary embodiment appears to be focused entirely upon the human arm. Only in the final "catch-all" paragraph [0044] does Pisani mention that a modified device could provide massage to the leg of a patient. There does not appear to be any mention of any foot water massaging anywhere in Pisani. As explained in detail throughout the applicants' specification, the anatomy of various foot surfaces (e.g., its nerve endings and the like) is quite complicated and likely different from that found on perhaps other areas of the body.

In any event, in view of fundamental deficiencies already noted of these references with respect to parent claim 1, no further comment is required at this time with respect to the additional deficiencies of these allegedly "obvious" two-way or three-way combinations of references with respect to other aspects of these rejected claims.

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According to amended claim 1, the water-spouting section moving mechanism moves a whole array of side-by-side nozzles (i.e., a widthwise band of water) along a longitudinal direction of the top-front foot. The moving mechanism is controlled by the control section such that water spouted from the plurality of nozzles is moved over the longitudinal dimension of the foot (e.g., ranging from a toe side to an ankle side).

When the water is thus spouted, it is sequentially (i.e., intermittently) passed over the top-front foot as if the entire foot-front is being patted or fondled, so that a most comfortable stimulus is imparted to the foot.

In the cited references, the spouted water does not spread sequentially or intermittently over a longitudinal direction of the top foot-front so that the spouted water cannot function as if the entire foot-front is, in turn, being patted or fondled, so that it is impossible to impart the same comfortable stimulus.

Various skin receptors exist on the foot front, as explained in the specification, so that the foot front is preferably intermittently stimulated.

In this connection, even if a rear or bottom surface of the foot is saturated with spouted water (as in Guzzini), the stimulating effect is relatively small and, in any event, not relevant to the claimed invention.

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The Examiner's attention is also drawn to new claims 18-19. New independent apparatus claim 18 requires a top-foot water-spouting section that spouts water into a top-front side of a user's foot over a band area that extends across the foot in a left-right dimension, but only along a limited transverse longitudinal foot dimension (e.g., extending between foot toe and ankle). Claim 18 also requires the movement mechanism to move the water-spouting section along the longitudinal foot dimension, thereby causing the band area to spout water on different widthwise bands of the top-foot at different times.

New independent method claim 19 will be seen to parallel the new apparatus claim 18 in method format.

For reasons apparent from the claim language and the above discussion, new claims 18-19 are also believed to be patentably distinct from any teaching or suggestion of the cited prior art.

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Accordingly, this entire application is now believed to be in allowable condition,
and a formal notice to that effect is earnestly solicited.

Respectfully submitted,

NIXON & VANDERHYE P.C.

By: Larry S. Nixon
Larry S. Nixon
Reg. No. 25,640

LSN:lef

901 North Glebe Road, 11th Floor
Arlington, VA 22203-1808
Telephone: (703) 816-4000
Facsimile: (703) 816-4100